

June 14, 2005



Proposed Rule for FDICIA Disclosures, Matter No. R411014
Federal Trade Commission/Office of the Secretary
Room H-159 (Annex A)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Sir/Madam:

Thank you for the opportunity to comment upon Matter No. R411014, Disclosures for Non-Federally Insured Financial Institutions under FDICIA.

Patelco Credit Union is a privately insured, California state-chartered credit union, serving 200,000 members primarily in and around the San Francisco Bay area. We converted from Federal share insurance to private insurance, provided by American Share Insurance, effective November 30, 2002.

Let it be noted that we fully support the need for all of our members to be fully informed of the fact and implications of Patelco being privately insured.

Conspicuous Disclosures

Section 320.3 of the proposed rule requires that:

“Depository institutions lacking federal deposit insurance must include in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice disclosing conspicuously that the institution is not federally insured, and if the institution fails, the federal government does not guarantee that depositors will get back their money.” (Emphasis added.)

We support the proposed language. The “clear and conspicuous” standard established and applied by the Federal Trade Commission over its broad base of regulated industries is sufficiently established to require no further regulatory clarification. A copy of a Patelco statement of account is enclosed for your inspection.

156 Second Street
San Francisco, CA
94105
415.442.6200

Similar Instrument Evidencing a Deposit

Section 320.3 of the FTC's proposed rule requires that:

“Depository institutions lacking federal deposit insurance must include in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice disclosing conspicuously that the institution is not federally insured, and if the institution fails, the federal government does not guarantee that depositors will get back their money.” (Emphasis added.)

We believe the definition of what constitutes a “similar instrument evidencing a deposit” should be clarified, to exclude/exempt every day deposit receipts, especially those generated remotely (i.e. via foreign ATMs or electronically). Patelco's members in fact are well informed of the absence of federal share insurance through their statements of account, advertising and facilities' signage.

Advertisements

Section 320.4 of the FTC's proposed rule requires in part that:

“Depository institutions lacking federal deposit insurance must include conspicuously a notice disclosing that the institution is not federally insured:

(b) In all advertisements, including, but not limited to, advertising in print, electronic, webpage, or broadcast media.”

Certainly, it is reasonable that credit union advertising generally disclose the fact that a particular credit union is privately insured. That said, there are forms of “advertising” where requiring such disclosure would be impractical, and the impact would effectively be to prohibit a credit union from using such advertising media.

Examples include:

- Joint advertising with other credit unions
- Promotional give-away items (i.e. pens, clothing)
- Directory listings
- Banners
- Mounted signs and plates

In addition, credit unions often advertise specifically for loans or insurance products. We believe advertising for specific products that are not membership-related or savings-related should not be included in the definition of “advertising” in this context.

Signage at Each Location

Section 320.4 of the proposed rule requires in part that:

“Depository institutions lacking federal deposit insurance must include conspicuously a notice disclosing that the institution is not federally insured:

- (a) At each location where the depository institution’s account funds or deposits are normally received, including, but not limited to, its principal place of business, its branches, its automated teller machines, and credit union centers, service centers, or branches servicing more than one credit union or institution . . .”

Currently, Patelco has signage disclosing our privately insured status in all of our 36 branches and at all of our proprietary ATM locations. However, Patelco members also make deposits at thousands of other locations within credit unions (who are part of a credit union shared-branch network) and at tens of thousands of ATMs that are part of a shared network of ATM machines. It would not be possible or practical to provide signage at all of the shared branch and ATM locations. I would emphasize again the ongoing disclosures member receive on all of their statements of account and other forms of member communications. We would request that proposed §320.4 be clarified to exclude non-proprietary remote deposit-taking locations and ATMs from the conspicuous notice requirement.

Acknowledgments

Section 320.5 of the FTC’s proposed rule requires in part that:

“... depository institutions lacking federal deposit insurance are prohibited from receiving any deposit of the account of a new or existing depositor unless the depositor has signed a written acknowledgement indicating that the institution is not federally insured, and, if the institution fails, the federal government does not guarantee that the depositor will get back the depositor’s money.”

It may be instructive to summarize Patelco’s insurance conversion experience. In compliance with NCUA regulations, our members were notified by mail of the pending vote on converting share insurance. During the requisite 30-day voting period, over 67,000 members (more than 1/3 of our total membership at the time) cast votes, and a majority supported the insurance conversion proposition.

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More importantly, existing members were notified on no less than four separate occasions following the insurance conversion vote, about their loss of federal share insurance. The first notification, as required by NCUA rules, informed members of the voting results and the scheduled prospective date for converting insurance, and three more times after the date of conversion in our attempt to comply with the spirit of the 1994 amendment to FDICIA. In this regard, we mailed three flights of acknowledgment forms to members, requesting they sign and return them to Patelco. In the 10 months following conversion, we received 13,451 acknowledgements back, out of a membership base of 195,000 (6.9% response).

Furthermore, all members also began receiving ongoing notifications on records of deposits, statements of account and various marketing materials. Also, since converting insurance, all new members have been required to sign a membership form at the time of joining Patelco acknowledging the absence of federal share insurance and the federal guarantee as required by FDICIA (copy of our current signature card with acknowledgement language enclosed).

In conclusion, we believe we have been very effective in communicating both the fact and the effect of our privately insured status to our members. Unfortunately, we were only able to obtain less than a 7% response rate after mailing three sequential mailings to our members in the spirit of the statute, as amended. The requirement under §320.5 of the proposed rule, as currently drafted, would seem to require us to turn away deposits and perhaps terminate memberships for a majority of our membership.

In addition, we believe that despite any diligent efforts by Patelco to reach all members seeking signed acknowledgments, a day would come when many members would face the unpleasant surprise that Patelco could no longer process their deposits, including electronic direct deposits. Such an outcome would clearly cause grave consequences in our members' financial lives, a disruption within the payments system, negative public reaction to an otherwise safe and sound Patelco Credit Union, and be needlessly harmful to private insurance.

Thank you again for the opportunity to comment.

Respectfully submitted,

Andrew Hunter
President/CEO

Note: Member enrolled in E-Statement for this period



PATELCO CREDIT UNION
156 2nd Street
San Francisco, CA 94105
415-442-6200

April 2005

Account Number PAGE
1 of 1

You must report any errors promptly by calling the above phone number.

STATEMENT PERIOD
04-01-05 thru 04-30-05

PAT L COE
156 2ND ST
SAN FRANCISCO CA 94105

Patelco Credit Union is privately insured by American Share Insurance.

This institution is not federally insured, and if the institution fails, the Federal Government does not guarantee that depositors will get back their money. Accounts with this institution are not insured by any state government.

Buy or refinance an auto. We'll tell you how to get a \$500 discount card. Visit www.patelco.org for details.

Suffix: 00 REGULAR SAVINGS ACCT

Post	Eff.	Transaction Description	Trace No.	Amount	Balance
		COMMITMENT MEMBER HOUSEHOLD			
		Beginning Balance:			5.07
	04-01	DIVIDEND		.01	5.08
		Y-T-D Dividends: \$.02			
		TRUTH IN SAVINGS DISCLOSURE: For Period 01/01/05 Through 03/31/05			
		Annual Percentage Yield Earned: 0.8023%		Dividends Paid:	\$.01

Suffix: 11 INTEREST CHECKING

Beginning Balance:	13.59		
Deposits:	.00		
Checks:	.00	Total Number of Checks Paid:	0
Misc. Debits:	.00		
Maint. Charges:	.00	Your Average Daily Balance was	13.59
Ending Balance:	13.59		
Y-T-D Dividends:	\$.00		

2005 YEAR TO DATE TAX SUMMARY

IRA YTD Dividends	Other YTD Dividends	Total YTD Dividends	Total YTD Withholding	Total YTD Forfeitures
.00	.02	.02	.00	.00

Patelco's Tiered Savings rates are among the highest available! How high? You can earn 1.00% APY* with as little as \$5 on deposit. To open an account or for more details, visit www.patelco.org or stop by a local branch. * Annual Percentage Yield, as of 4/27/05.

Make the smart choice. Become a member today.

We invite you to join Patelco, a not-for-profit credit union dedicated to maximizing your value, not our profits. We roll our success into low loan rates, high savings rates, and low fees, so you can get more for your money and meet your financial goals. But don't take our word for it, find out for yourself.

Complete the enclosed Membership Enrollment Form and select the accounts you'd like to start with, such as a free checking account with no monthly fee or minimum balance requirement. (Every member starts with a Tiered Savings Account.*) And, if you're interested in a loan, fill out the Easy Loan Application.

* There is a Minimum Savings Balance Fee of \$3 per month unless your total deposits (the sum of savings, checking, certificate, IRA, and money market balances) is at least \$150. You can also avoid this fee if you have a direct deposit; a Patelco loan, credit card, or line of credit; or a Freedom Checking Account. Commitment Household members and minors are exempt from this fee.

Patelco Credit Union is privately insured up to \$250,000 per account by American Share Insurance.

This institution is not federally insured, and if the institution fails, the Federal Government does not guarantee that depositors will get back their money. Accounts with this institution are not insured by any state government.



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This institution is not federally insured, and if the institution fails, the Federal Government does not guarantee that depositors will get back their money. Accounts with this institution are not insured by any state government.

Mailing Address
156 Second Street
San Francisco, CA 94105

Web Address
www.patelco.org

Telephone
415.442.6200

Toll-Free Nationwide
1.800.358.8228 (outside CA)

Branches
Find a branch near you.
www.patelco.org [Link: Locations, Branches]

Credit Union Service Centers
Find a shared branch from our nationwide network.
www.cuswirl.com

CO-OP ATM Network
Find an ATM from our nationwide network.
www.co-opnetwork.org
1.888.748.3266

PC-24 Online Banking
www.patelco.org [Link: Online Banking]

Call-24 Telephone Banking
1.888.766.2424

Lost or Stolen Credit Card?
415.442.6200
1.800.543.5073 (after business hours)

Questions or Comments?
Send us an email.
patelco@patelco.org


CREDIT UN

Your money. More value. Smart choices.

Membership Enrollment Form

Step 1. Print Information

Vs. Mr. Mrs.

Name: _____ Middle Initial: _____ Last Name: _____

SSN: _____ Date of Birth: ____/____/____ Mother's Maiden Name: _____

(Driver's License, Passport, Military, State) (Circle One) Expiration: _____

Address: _____

Home Phone: _____ Work Phone: _____

State: _____ Zip: _____

Previous Address (If less than 5 years at current address): _____ State: _____ Zip: _____

Current Employer: _____ Occupation: _____

Vs. Mr. Mrs.

Name: _____ Middle Initial: _____ Last Name: _____

SSN: _____ Date of Birth: ____/____/____ Email Address: _____

(Driver's License, Passport, Military, State) (Circle One) Expiration: _____

Address (If different from Member): _____ State: _____ Zip: _____

Current Employer: _____ Work or Daytime Phone: _____

Step 2. Declare Membership Eligibility

I am eligible to join Patelco in one of the following ways:

- Employee or Member of a Select Employer Group (SEG) or Association
Company or Association Name: _____
- Family or Household Member
Member Name: _____
Member Number: _____ Relationship: _____
- Live or work in a Patelco Community Charter
- Other
Please Explain: _____

Step 3. Choose Account(s)

	Minimum Deposit	Deposit Amount
<input checked="" type="checkbox"/> Membership Fee	n/a	\$20
<input checked="" type="checkbox"/> Tiered Savings	\$5	\$
<input type="checkbox"/> Free Checking	\$10	\$
<input type="checkbox"/> Interest Checking	\$10	\$

- Check here for an ATM or Check Card
- Check here to receive e-statements
- Would you like Overdraft Protection? Yes No

If yes, from which Patelco account(s) would you like to pull?
(Indicate order of preference.)

_____ Savings _____ Money Market
_____ Line of Credit _____ Credit Card

Please Print on Checks:

- Home Phone: _____
- Driver's License: _____
- Joint Owner Driver's License: _____

	Minimum Deposit	Deposit Amount
<input type="checkbox"/> Certificate*	\$1,000	\$
<input type="checkbox"/> Money Market*	\$1,000	\$
<input type="checkbox"/> Money Market Plus*	\$50,000	\$
<input type="checkbox"/> Holiday Club	\$20	\$
<input type="checkbox"/> Insured Variable Money Fund	\$10,000	\$
<input type="checkbox"/> Treasury Income*	\$25,000	\$
Total Deposits:		\$ _____

* Also available as IRAs. Requires additional forms. Please call us for more information.

Certificate Accounts:

- A. Term: _____ months (available from three to 60 months)
OR
Maturity Date: ____/____/____
- B. Upon maturity, transfer funds to suffix: _____

Step 4. Sign

Services, policies, and fees are effective Oct. 1, 2003, and are subject to change. All Checking Accounts and ATM/Check cards are subject to approval. I have enclosed the required minimum of \$25 to open my savings account. Upon approval of this application, Patelco will issue a ATM/Check card and issue a Personal Identification Number (PIN) to me. My ATM/Check card will access any line of credit I have established with the credit union.

By signing below, I authorize Patelco Credit Union to check my credit history including the verification of the information on this request. I understand that you may contact me for further information, and that this application must be completed fully for Patelco to process my request. You may obtain information from others about me and give credit information to others.

I/we certify under penalties of perjury that the taxpayers ID/Social Security Number given to the credit union on this application is correct. I/we have never received a notice from the Internal Revenue Service of underreporting of dividends or interest. I/we am/are not now obligated to have dividends or interest withheld. By signing below, I/we agree to the terms and conditions of Patelco's Account Disclosures, Fee Schedule and Privacy Policy, and any updates.

X
Signature of Member _____ Date _____

X
Signature of Joint Owner _____ Date _____

Patelco Credit Union is privately insured up to \$250,000 per account by American Share Insurance.

This institution is not federally insured, and if the institution fails, the Federal Government does not guarantee that depositors will get back their money. Accounts with this institution are not insured by any state government.

X
Signature of Member _____ Date _____

To Patelco Credit Union:
If I do not attend the meetings of the members of Patelco Credit Union, I hereby delegate the Board of Directors by majority vote to appoint a Proxy to represent me at all meetings and to vote for me in my name on all questions and elections coming before said meetings. This Proxy shall remain in force for three years from the date below, unless cancelled in writing or unless I sign a new Proxy and deliver the new Proxy to the Credit Union, or unless I attend a meeting and vote in person. Such attendance does not revoke this Proxy for subsequent meetings.

Member Name _____ Social Security Number _____

Address _____

City _____ State _____ Zip _____

X
Signature of Member _____ Date _____

Complete this form and bring it to a local branch, fax it, or mail it to the appropriate address (see back of brochure for fax number and mailing address.) Be sure to include a check for your total deposits and a copy of a valid ID.

For credit union use only:
Teller Initials _____ Checks Ordered _____ Credit Report _____
CHEX Systems _____ ATM/Check Card Ordered _____
Date Approved _____ Membership Officer _____